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Global justice: what does it mean?

Citation for published version:

Andreangeli, A, *Global justice: what does it mean? An attempt to start answering...*, 2013, Web publication/site, Global Justice Academy Blog. <<http://www.globaljusticeblog.ed.ac.uk/2013/02/01/global-justice-what-does-it-mean-an-attempt-to-start-answering/>>

Link:

[Link to publication record in Edinburgh Research Explorer](#)

Document Version:

Publisher's PDF, also known as Version of record

Publisher Rights Statement:

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Global Justice Academy

Blog

Global Justice Academy, University of Edinburgh

‘Global justice: what does it mean? An attempt to start answering...’

Posted on **February 1, 2013** by **admin**

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Why do we talk about ‘global justice’? Today is this just a “trendy” expression, or does it reflect the changing nature of the legal, political and economic frameworks governing, shaping and more generally “populating” the complex web of relationships existing across the world and involving states as well as private actors? Justice is already a laden term, aspirational as well as positive: for us lawyers, ‘justice’ passes through equality, fairness, due process of law, democratic debate and openness; yet, there is so much more than this. Could a society where everyone is treated equally before the law when it comes to, say, criminal trials, but where resources (whether natural or financial) are only controlled by a few? Surely, one would object to this: for justice today is increasingly “economic”: in other words, the principles of the free market, with its emphasis on unhindered competition, full access and contestability and on the need to protect and encourage investments and greater human endeavour, have increasingly been tempered with considerations of “fairness” in the sense of “giving workers what is due to them” and of encouraging the sharing of finite resources.

More generally, the recognition that poverty has now largely surpassed war as a main source of “human misery” has pushed the development of notions of justice toward assuming a more economic substance; take the ‘poor’ for instance: it was perfectly acceptable in the 1930s to think of them as ‘feckless’. Today, we are all too aware of the barriers to social mobility and of their implications for anything from school attainment to access to employment. And we have come to accept that the ‘state’ should act in a way that ‘realises justice’, by eliminating these barriers and thereby improving life expectancy and enabling social mobility. At the same time, this new understanding of what a ‘just society’ and a ‘just nation’ are has challenged the existing frameworks through which decisions are

taken and, more generally, debate takes place with a view to influencing policy agendas. New actors, not necessarily belonging to the “state realm” have powerfully emerged; the greater ease with which mass media can be accessed makes the circulation and cross-fertilisation of ideas much more immediate and gives them greater impact; perhaps most importantly, it draws a strong emphasis on the involvement of private actors in this process. The push toward privatisation of key industries, such as energy and other essential utilities, means that it is private actors that determine the dynamics of the economy in many sectors and especially in markets that have a direct impact on the lives of individuals, especially the most fragile. Thus, the challenge of creating a “socially just” society can no longer be attained in the limited remit of “politics”; it must also pass through an honest and careful look at what we mean by a “balanced” economy—one in which profits are made without plundering the environment, investment is protected and sustained without limiting access to key resources only to a “lucky few” and consumers are protected from harm, even though that protection may come to a cost. This idea of a “social market economy” is not new—it is actually at core of the EU treaties, for starters. It is what we do to attain it that matters, and how.

So, why ‘global’? One could argue that it is primarily for the ‘state’ to take care of its citizens by exercising the powers conferred to it via its agencies and thereby realising commonly shared goals through instruments that are shaped by the debate and the decision making taking place within its space. However, since the end of World War II, the decline of this idea of “Westphalian”, all-encompassing and all-powerful state has inexorably declined. Borders are porous, if not altogether movable; the state activity itself is constrained, shaped and directed via influences, factors and energies that cannot be cajoled into the “institutional structures” through which the state itself acts. New actors have emerged, whose economic might makes them more “pervasive” in their action than the state structures and powers themselves, without any “democratic check” being put on them. All of these factors mean that dialogue, debate, decision-making and practical action no longer occurs in the “limited space” of the nation state: the UN, the Bretton Woods System, the emergence of regional supranational structures as well as the greater institutionalisation of multilateral treaties have resulted in states having to cede or limit their sovereign powers and to pool them together to achieve overarching policy goals. Civil society is also alive and well and robust in its involvement in and scrutiny of this decision making. Individuals themselves are also part of this picture: the application of “non-domestic” rules impacts more and more often on them; businesses have a very relevant and “heavy-hitting” role in the “rooms of power”.

This is in short what makes the quest for justice today ‘global’: the recognition that decisions taken in individual jurisdictions both span out of their boundaries and are guided by outside influences; yet, at the same time they raise challenges that are both ‘global’ and ‘local’ and seek to answer to them by adopting solutions that may reflect common values as well as being guided by different formats and dynamics. The awareness of the fact that the arena in which important decisions as to how to realise this “just society” is populated by a variety of actors and extends way beyond the boundaries of states; the recognition that ‘private’ and ‘public’, ‘markets’ and ‘power’ are deeply intertwined.

This is what ‘global justice’ is for me: both an aspiration and a concept having a number of key legal elements within it. As an aspiration, it depicts a society in which political deficits

and economic gaps tend to be filled and greater fairness, equality of opportunity and stronger checks on power (whether political or economic) are present. As a “legally laden” notion, it encompasses a set of rules designed to realise these goals: from upholding civil rights’ guarantees to the protection of rivalry for the purpose of maintaining open markets and efficient sharing of resources as well as good functioning of infrastructures; from furthering equality not only before the law but also with a view to accessing economic, educational and labour opportunities to eventually seeking to bridge the differences between social layers. It also inevitably hinges upon a complex, spider-web structured institutional framework which is often “soft” and “informal” but which should not be beyond transparency and scrutiny.

In the words of Thomas Pogge:

“(...) this question focuses attention on how today’s massive incidence of violence and severe poverty, and the huge excesses of mortality and morbidity they cause, might be avoided not merely through better government behavior, domestically and internationally, but also, and much more effectively, through global institutional reforms that would, among other things, elevate such government behaviour by modifying the options governments have and the incentives they face (...).”

(“What is global justice?”, lecture given at the MacMillan centre for International and Area studies, Yale University, 2011; accessible at: <http://www.yale.edu/macmillan/globaljustice/docs/gjlecture.pdf>).

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